

Senate Bill No. 1790

CHAPTER 601

An act to amend Sections 25410.5, 25410.6, 25411, 25413, 25415, 25416, 25417.5, 25441, 25442.7, 25443.5, 25445, 25446, 25449.1, and 25449.3 of, and to repeal Sections 25412.5, 25441.5, and 25447.2 of, the Public Resources Code, and to add Section 2774.6 to the Public Utilities Code, relating to energy.

[Approved by Governor September 15, 2002. Filed
with Secretary of State September 16, 2002.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1790, Bowen. Energy resources.

(1) Existing law establishes the State Energy Conservation Assistance Account to carry out the provisions of the Energy Conservation Assistance Act of 1979. Existing law provides that it is the intent of the Legislature that the account be administered by the State Energy Resources Conservation and Development Commission to provide grants and loans to local governments and public institutions to maximize energy use savings through technical assistance, demonstrations, and identification and implementation of cost-effective energy efficiency measures and programs.

This bill would amend related legislative findings and declarations and would state the intent of the Legislature that the energy efficiency measures and programs for which grants and loans may be provided are for existing and planned buildings and facilities. This bill would make conforming changes to various definitions under the act.

(2) Existing law defines "technical assistance program" for the purposes of the act, as specified assistance to schools, hospitals, local government, and public care institutions.

This bill would include in that definition specialized studies related to energy and cost savings likely to be realized as a result of new construction activities, and the development and evaluation of alternative project implementation and proposals.

(3) Existing law requires the commission to approve only those applications for projects that will recover costs through savings in the cost of energy to the institution during repayment.

This bill would require the commission to prescribe the manner in which the savings would be calculated.

Existing law further requires the commission to give priority to projects that, based on anticipated savings in the cost of energy, will most quickly recover the cost of the allocation.

This bill would delete that provision.

(4) Existing law requires each eligible institution to which an allocation has been made to repay the principal amount of the allocation, plus interest, in not more than 22 equal semiannual payments.

This bill would instead require the institution to repay the amount in not more than 30 payments.

The bill would additionally prohibit the repayment period from exceeding the life of the equipment or lease term of the relevant building.

(5) Existing law authorizes the commission to contract and provide grants for specified services to be performed for eligible institutions. Existing law provides that the amount expended for those services may not exceed 10% of the annual appropriation from the account.

This bill would instead provide that the amount may not exceed 10% of the balance of the account on July 1 of each year.

Existing law authorizes the commission to charge a fee for services provided to institutions and local jurisdictions, provided that the funds used for the payment of services has been made available as a result of the realization of savings in energy costs. Existing law further provides that, if anticipated savings do not result from the project, the repayment of fees shall be forgiven.

This bill would delete those restrictions.

(6) Existing law authorizes the commission to borrow money from, sell loans to, or enter into loan agreements or other contracts with, the California Economic Development Financing Authority and the California Infrastructure and Economic Development Bank, for specified purposes.

This bill would include the California Consumer Power and Conservation Financing Authority among those entities.

(7) Existing law authorizes the commission to make loans to local jurisdictions for energy project assistance. Existing law provides that the loans may not exceed \$1,000,000 for any one local jurisdiction and provides that the loan may not exceed 75% of the project costs.

This bill would delete the above provision and instead provide that the loan may not exceed \$5,000,000.

(8) Existing law provides that loans to local jurisdictions be evaluated according to specified factors.

This bill would delete certain of these factors.

(9) Existing law authorizes the commission to make loans to local governments owning, or leasing from entities other than privately owned electrical utilities, street lighting systems for conversion of such



systems from incandescent or mercury vapor lighting to sodium vapor lighting or another lighting system of equivalent energy efficiency, if the conversion results in comparable illumination.

This bill would repeal that provision.

(10) Existing law provides that financial assistance provided to local jurisdictions for staff training and support services, as specified, may not exceed 75% of the cost of carrying out the activity, except as specified.

This bill would repeal that provision.

The bill would additionally delete various obsolete provisions of law.

(11) Existing law provides for regulation of electrical corporations by the Public Utilities Commission.

This bill would require the Public Utilities Commission, in consultation with the State Energy Resources Conservation and Development Commission, to develop a program for residential and commercial customer air-conditioning load control, as an element of each electrical corporation's tariffed service offerings paid for with electric rates. The bill would provide that the goal of the program is to contribute to the adequacy of electricity supply and to help customers reduce their electric bills in a cost-effective manner.

Because a violation of a rule or order of the Public Utilities Commission is a crime under existing provisions of law, the bill would impose a state-mandated local program by creating a new crime.

(12) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 25410.5 of the Public Resources Code is amended to read:

25410.5. The Legislature finds and declares all of the following:

(a) Energy costs are frequently the second largest discretionary expense in a local government's budget. According to the commission, most public institutions could reduce their energy costs by 20 to 30 percent.

(b) A variety of energy conservation measures are available to local governments. These measures are highly cost-effective, often providing a payback on the initial investment in three years or less.



(c) Many local governments lack energy management expertise and are often unaware of their high energy costs or the opportunities to reduce those costs.

(d) Local governments that desire to reduce their energy costs through energy conservation and efficiency measures often lack available funding.

(e) Since 1980, the Energy Conservation Assistance Account has provided \$110 million in loans, through a revolving loan account, to 600 schools, hospitals, and local governments. The energy conservation projects funded by the account save approximately \$35 million annually in energy costs.

(f) Local governments and public institutions need assistance in all aspects of energy efficiency improvements, including, but not limited to, project identification, project development and implementation, evaluation of project proposals and options, operations and maintenance, and troubleshooting of problem projects.

SEC. 2. Section 25410.6 of the Public Resources Code is amended to read:

25410.6. (a) It is the intent of the Legislature that the commission shall administer the State Energy Conservation Assistance Account to provide grants and loans to local governments and public institutions to maximize energy use savings, including, but not limited to, technical assistance, demonstrations, and identification and implementation of cost-effective energy efficiency measures and programs in existing and planned buildings or facilities.

(b) It is further the intent of the Legislature that the commission seek the assistance of utility companies in providing energy audits for local governments and public institutions and in publicizing the availability of State Energy Conservation Assistance Account funds to qualified entities.

SEC. 3. Section 25411 of the Public Resources Code is amended to read:

25411. As used in this chapter:

(a) “Allocation” means a loan of funds by the commission pursuant to the procedures specified in this chapter.

(b) “Building” means any existing or planned structure that includes a heating or cooling system, or both. Additions to an original building shall be considered part of that building rather than a separate building.

(c) “Eligible institution” means a school, hospital, public care institution, or a unit of local government.

(d) “Energy audit” means a determination of the energy consumption characteristics of a building or facility that does all of the following:



(1) Identifies the type, size, and energy use level of the building or facility and the major energy using systems of the building or facility.

(2) Determines appropriate energy conservation maintenance and operating procedures.

(3) Indicates the need, if any, for the acquisition and installation of energy conservation measures.

(e) “Energy conservation maintenance and operating procedure” means a modification or modifications in the maintenance and operations of a building or facility, and any installations therein (based on the use time schedule of the building or facility), which are designed to reduce energy consumption in the building or facility and that require no significant expenditure of funds.

(f) “Energy conservation measure” means an installation or modification of an installation in a building or facility that is primarily intended to reduce energy consumption or allow the use of a more desirable energy source.

(g) “Energy conservation project” means an undertaking to acquire and to install one or more energy conservation measures in a building or facility, and technical assistance in connection with that undertaking.

(h) “Facility” means any major energy using system of an eligible institution whether or not housed in a building.

(i) “Hospital” means a public or nonprofit institution that is both of the following:

(1) A general hospital, tuberculosis hospital, or any other type of hospital, other than a hospital furnishing primarily domiciliary care.

(2) Duly authorized to provide hospital services under the laws of this state.

(j) “Hospital building” means a building housing a hospital and related operations, including laboratories, laundries, outpatient departments, nurses’ home and training activities, and central service operations in connection with a hospital, and also includes a building housing education or training activities for health professions personnel operated as an integral part of a hospital.

(k) “Local government building” means a building that is primarily occupied by offices or agencies of a unit of local government or by a public care institution.

(l) “Project” means a purpose for which an allocation may be requested and made under this chapter. Those purposes shall include energy audits, energy conservation and operating procedures, and energy conservation measures in existing and planned buildings and facilities, energy conservation projects, and technical assistance programs.



(m) “Public care institution” means a public or nonprofit institution that owns:

- (1) A long-term care institution.
- (2) A rehabilitation institution.
- (3) An institution for the provision of public health services, including related publicly owned services such as laboratories, clinics, and administrative offices operated in connection with the institution.
- (4) A residential child care center.

(n) “Public or nonprofit institution” means an institution owned and operated by:

(1) The state, a political subdivision of the state, or an agency or instrumentality of either.

(2) An organization exempt from income tax under Section 501(c)(3) of the Internal Revenue Code of 1954.

(3) In the case of public care institutions, an organization also exempt from income tax under Section 501(c)(4) of the Internal Revenue Code of 1954.

(o) “School” means a public or nonprofit institution, including a local educational agency, which:

(1) Provides, and is legally authorized to provide, elementary education or secondary education, or both, on a day or residential basis.

(2) Provides, and is legally authorized to provide, a program of education beyond secondary education, on a day or residential basis and meets all of the following requirements:

(A) Admits as students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of that certificate.

(B) Is accredited by a nationally recognized accrediting agency or association.

(C) Provides an education program for which it awards a bachelor’s degree or higher degree or provides not less than a two-year program that is acceptable for full credit toward a degree at any institution that meets the requirements of subparagraphs (A) and (B) and provides that program.

(3) Provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and that meets the provisions of (2).

(p) “School building” means a building housing classrooms, laboratories, dormitories, athletic facilities, or related facilities operated in connection with a school.

(q) “Technical assistance costs” means costs incurred for the use of existing personnel or the temporary employment of other qualified personnel, or both, necessary for providing technical assistance.



(r) “Technical assistance program” means assistance to schools, hospitals, local government, and public care institutions and includes, but is not limited to:

(1) Conducting specialized studies identifying and specifying energy savings and related cost savings that are likely to be realized as a result of:

(A) Modification of maintenance and operating procedures in a building or facility, in addition to those modifications implemented after the preliminary energy audit, or

(B) Acquisition and installation of one or more specified energy conservation measures in the building or facility, or as a result of both.

(C) New construction activities.

(2) Planning of specific remodeling, renovation, repair, replacement, or insulation projects related to the installation of energy conservation measures in the building or facility.

(3) Developing and evaluating alternative project implementation methods and proposals.

(s) “Unit of local government” means a unit of general purpose government below the state or a special district.

SEC. 4. Section 25412.5 of the Public Resources Code is repealed.

SEC. 5. Section 25413 of the Public Resources Code is amended to read:

25413. Applications may be approved by the commission only in those instances where the eligible institution has furnished information satisfactory to the commission that the costs of the project, plus interest on state funds loaned, calculated in accordance with Section 25415, will be recovered through savings in the cost of energy to the institution during the repayment period of the allocation.

The savings shall be calculated in a manner prescribed by the commission.

SEC. 6. Section 25415 of the Public Resources Code is amended to read:

25415. (a) Each eligible institution to which an allocation has been made under this chapter shall repay the principal amount of the allocation, plus interest, in not more than 30 equal semiannual payments, as determined by the commission. The first semiannual payment shall be made on or before December 22 of the fiscal year following the year in which the project is completed. The repayment period may not exceed the life of the equipment, as determined by the commission or the lease term of the building in which the energy conservation measures will be installed.

(b) Notwithstanding any other provision of law, the commission shall, unless it determines that the purposes of this chapter would be



better served by establishing an alternative interest rate schedule, periodically set interest rates on the loans based on surveys of existing financial markets and at rates not less than 3 percent per annum.

(c) The governing body of each eligible institution shall annually budget an amount at least sufficient to make the semiannual payments required in this section. The amount shall not be raised by the levy of additional taxes but shall instead be obtained by a savings in energy costs or other sources.

SEC. 7. Section 25416 of the Public Resources Code is amended to read:

25416. (a) The State Energy Conservation Assistance Account is hereby created in the General Fund. Notwithstanding Section 13340 of the Government Code, the account is continuously appropriated to the commission without regard to fiscal year.

(b) The money in the account shall consist of all money authorized or required to be deposited in the account by the Legislature and all money received by the commission pursuant to Sections 25414 and 25415.

(c) The money in the account shall be disbursed by the Controller for the purposes of this chapter as authorized by the commission.

(d) The commission may contract and provide grants for services to be performed for eligible institutions. Services may include, but are not limited to, feasibility analysis, project design, field assistance, and operation and training. The amount expended for those services may not exceed 10 percent of the balance of the account as determined by the commission on July 1 of each year.

(e) The commission may make grants for innovative projects and programs. The amount expended for grants may not exceed 5 percent of the annual appropriation from the account.

(f) The commission may charge a fee for the services provided under subdivision (d).

SEC. 8. Section 25417.5 of the Public Resources Code is amended to read:

25417.5. (a) In furtherance of the purposes of the commission as set forth in this chapter, the commission has the power and authority to do all of the following:

(1) Borrow money, for the purpose of obtaining funds to make loans pursuant to this chapter, from the California Economic Development Financing Authority, the California Infrastructure and Economic Development Bank, and the California Consumer Power and Conservation Financing Authority from the proceeds of revenue bonds issued by any of those agencies.



(2) Pledge, to provide collateral in connection with the borrowing of money pursuant to paragraph (1), loans made pursuant to this chapter or Chapter 5.4 (commencing with Section 25440), or the principal and interest payments on loans made pursuant to this chapter or Chapter 5.4 (commencing with Section 25440).

(3) Sell loans made pursuant to this chapter or Chapter 5.4 (commencing with Section 25440), at prices determined in the sole discretion of the commission, to the California Economic Development Financing Authority, the California Infrastructure and Economic Development Bank, and the California Consumer Power and Conservation Financing Authority to raise funds to enable the commission to make loans to eligible institutions.

(4) Enter into loan agreements or other contracts necessary or appropriate in connection with the pledge or sale of loans pursuant to paragraph (2) or (3), or the borrowing of money as provided in paragraph (1), containing any provisions that may be required by the California Economic Development Financing Authority, the California Infrastructure and Economic Development Bank, or the California Consumer Power and Conservation Financing Authority as conditions of issuing bonds to fund loans to, or the purchase of loans from, the commission.

(b) In connection with the pledging of loans, or of the principal and interest payment on loans, pursuant to paragraph (2) of subdivision (a), the commission may enter into pledge agreements setting forth the terms and conditions pursuant to which the commission is pledging loans or the principal and interest payment on loans, and may also agree to have the loans held by bond trustees or by independent collateral or escrow agents and to direct that payments received on those loans be paid to those trustee, collateral, or escrow agents.

(c) The commission may employ financial consultants, legal advisers, accountants, and other service providers, as may be necessary in its judgment, in connection with activities pursuant to this chapter.

(d) Notwithstanding any other provision of law, this chapter provides a complete, separate, additional, and alternative method for implementing the measures authorized by this chapter, including the authority of the eligible institutions or local jurisdictions to have borrowed and to borrow in the future pursuant to loans made pursuant to this chapter or Chapter 5.4 (commencing with Section 25440), and is supplemental and additional to powers conferred by other laws.

SEC. 9. Section 25441 of the Public Resources Code is amended to read:

25441. The commission shall provide financial assistance to local jurisdictions for the purpose of providing staff training and support



services, including, but not limited to, planning design, permitting, energy conservation, comprehensive energy management, project evaluation, and development of alternative energy resources.

SEC. 10. Section 25441.5 of the Public Resources Code is repealed.

SEC. 11. Section 25442.7 of the Public Resources Code is amended to read:

25442.7. (a) Loans under this article may not exceed five million dollars (\$5,000,000) for any one local jurisdiction unless the commission determines, by unanimous vote, that the public interest and objectives of this chapter would be better served at a higher loan amount.

(b) Loan repayments shall be made in accordance with a schedule established by the commission. Repayment of loans shall be made in full unless the commission determines, by unanimous vote, that the public interest and objectives of this chapter would be better served by negotiating a reduced loan repayment for a project that fails to meet the technical or financial performance criteria through no fault of the local jurisdiction.

SEC. 12. Section 25443.5 of the Public Resources Code is amended to read:

25443.5. (a) In furtherance of the purposes of the commission as set forth in this chapter, the commission has the power and authority to do all of the following:

(1) Borrow money, for the purpose of obtaining funds to make loans pursuant to this chapter, from the California Economic Development Financing Authority, the California Infrastructure and Economic Development Bank, and the California Consumer Power and Conservation Financing Authority from the proceeds of revenue bonds issued by any of those agencies.

(2) Pledge, to provide collateral in connection with the borrowing of money pursuant to paragraph (1), loans made pursuant to this chapter or Chapter 5.2 (commencing with Section 25410), or the principal and interest payments on loans made pursuant to this chapter or Chapter 5.2 (commencing with Section 25410).

(3) Sell loans made pursuant to this chapter or Chapter 5.2 (commencing with Section 25410), at prices determined in the sole discretion of the commission, to the California Economic Development Financing Authority, the California Infrastructure and Economic Development Bank, and the California Consumer Power and Conservation Financing Authority to raise funds to enable the commission to make loans to eligible institutions.

(4) Enter into loan agreements or other contracts necessary or appropriate in connection with the pledge or sale of loans pursuant to paragraph (2) or (3), or the borrowing of money as provided in paragraph



(1), containing any provisions that may be required by the California Economic Development Financing Authority, the California Infrastructure and Economic Development Bank, or the California Consumer Power and Conservation Financing Authority as conditions of issuing bonds to fund loans to, or the purchase of loans from, the commission.

(b) In connection with the pledging of loans, or of the principal and interest payment on loans, pursuant to paragraph (2) of subdivision (a), the commission may enter into pledge agreements setting forth the terms and conditions pursuant to which the commission is pledging loans or the principal and interest payment on loans, and may also agree to have the loans held by bond trustees or by independent collateral or escrow agents and to direct that payments received on those loans be paid to those trustee, collateral, or escrow agents.

(c) The commission may employ financial consultants, legal advisers, accountants, and other service providers, as may be necessary in its judgment, in connection with activities pursuant to this chapter.

(d) Notwithstanding any other provision of law, this chapter provides a complete, separate, additional, and alternative method for implementing the measures authorized by this chapter, including the authority of the eligible institutions or local jurisdictions to have borrowed and to borrow in the future pursuant to loans made pursuant to this chapter or Chapter 5.2 (commencing with Section 25410), and is supplemental and additional to powers conferred by other laws.

SEC. 13. Section 25445 of the Public Resources Code is amended to read:

25445. The commission shall design a local jurisdiction energy assistance program for the purpose of providing financial assistance under Article 2 (commencing with Section 25441) and providing loans under Article 3 (commencing with Section 25442). A local jurisdiction's energy assistance program shall be funded through the commission's existing local government assistance programs, except that if a project is not eligible for funding under an existing program, the commission may fund the project under this chapter.

SEC. 14. Section 25446 of the Public Resources Code is amended to read:

25446. Loans made pursuant to this program shall, at a minimum, be evaluated on both of the following factors:

(a) Project feasibility.

(b) Energy savings or energy production potential sufficient to repay the loan in accordance with Section 25442.

SEC. 15. Section 25447.2 of the Public Resources Code is repealed.



SEC. 16. Section 25449.1 of the Public Resources Code is amended to read:

25449.1. The commission shall enter into an agreement with the State Department of Education to expend petroleum violation escrow funds to supplement, and not supplant, other available funds in order to provide loans to school districts to purchase, maintain, and evaluate energy efficient equipment and small power production systems.

SEC. 17. Section 25449.3 of the Public Resources Code is amended to read:

25449.3. (a) The Local Jurisdiction Energy Assistance Account is hereby created in the General Fund. All money appropriated for purposes of this chapter and all money received from local jurisdictions from loan repayments shall be deposited in the account and disbursed by the Controller as authorized by the commission.

(b) The commission may charge a fee for the services provided under this chapter.

(c) The commission may contract for services to be performed by eligible institutions, as defined in subdivision (c) of Section 25411. Those services may include, but are not limited to, performance of a feasibility analysis, and providing project design, field evaluation, and operation and training assistance. The amount expended for contract services may not exceed 10 percent of the annual scheduled loan repayment to the Local Jurisdiction Energy Assistance Account, as determined by the commission not later than July 1 of each fiscal year.

SEC. 18. Section 2774.6 is added to the Public Utilities Code, to read:

2774.6. The commission, in consultation with the State Energy Resources Conservation and Development Commission, shall develop a program for residential and commercial customer air-conditioning load control, as an element of each electrical corporation's tariffed service offerings paid for with electric rates. The goal of the program shall be to contribute to the adequacy of electricity supply and to help customers reduce their electric bills in a cost-effective manner. The program may include peak load reduction programs for residential and commercial air-conditioning systems, if the commission determines that the inclusion would be cost-effective.

SEC. 19. The Legislature finds and declares all of the following:

(a) Air-conditioning load constitutes 28 percent of California's peak electricity demand, the largest single component of electricity demand.

(b) Reducing peak load of, and implementing load control for, residential and commercial air-conditioning systems by the state's electrical corporations can achieve a significant reduction of California's peak electricity demand in a cost-effective manner.



(c) It is the intent of the Legislature that the state establish cost-effective load control programs for residential and commercial air-conditioning systems.

SEC. 20. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

